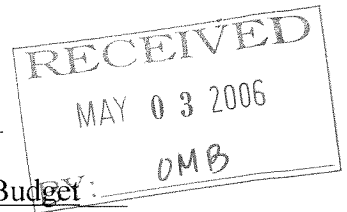


**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**



Meeting Date: May 16, 2006

Division: Budget & Finance

Bulk Item: Yes X No

Department: Office of Mgmt & Budget

Staff Contact Person: Salvatore Zappulla

AGENDA ITEM WORDING:

Request for approval for the Mayor to execute the attached letter of Commitment from Bank of America for a direct pay letter of credit not to exceed \$35,402,740.00 in Principal and Interest combined. The Letter of Credit will provide liquidity and credit support for the Variable Rate Demand Obligations (V.R.D.O.'s) to be issued by the County to pay for a portion of the Terminal Improvements.

ITEM BACKGROUND:

The County's engineer, URS Corp., has estimated the total project cost to be \$31,186,901. This estimated project cost has been used by the financial advisors, Public Financial Management (PFM) and Airport Consultants, Newton & Associates, Inc. in the analysis of financial feasibility. The majority of this amount will be raised through a (VRDO) Variable Rate Demand Obligation. \$5.0 million of this will be funded by the County's Capital Improvements Plan Fund (304) **over three years**, and 2.3M of which will be funded by the Federal Aviation Administration (FAA) A.I.P. Airport Improvements Grant, which will be available to the County in August, 2006. The current plan of finance assumes the application of \$8.708 million in State and Federal Grants to the advanced repayment of the VRDOs. However, it should be noted that these grant funding assumptions represent the minimum level of grant funding for financial planning purposes. The actual grants applied to the repayment of the VRDOs are not limited to those amounts described herein. If more grant funds are realized the local share cost of the project will be reduced accordingly.

PREVIOUS RELEVANT BOCC ACTION:

On April 19, 2006 the Board of County Commissioners approved a plan of Finance for the New Terminal Complex at the Key West International Airport

CONTRACT/AGREEMENT CHANGES:

STAFF RECOMMENDATIONS:

Approval

TOTAL COST: 81 basis points of available amt. **BUDGETED:** Yes X No

COST TO COUNTY: Approx 600K for 3 years **SOURCE OF FUNDS:** Bond Proceeds

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** **Year**

APPROVED BY: County Atty. SA OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL: Salvatore R. Zappulla
(Salvatore R. Zappulla)

DOCUMENTATION: Included Not Required

DISPOSITION: **AGENDA ITEM #**



March 30, 2006

Lauren Shelton, Consultant
Public Financial Management, Inc.
13350 Metro Parkway, Suite 302
Fort Myers, FL 33912

RE: Request for proposals for direct pay letter of credit for Monroe County, Florida (Key West International Airport Project)

Dear Ms. Shelton:

Bank of America, N.A. (the "Bank") is pleased to have approved Monroe County, Florida (the "County") for a credit facility consisting of a direct pay letter of credit in an amount of not to exceed \$35,000,000.00 in principal amount, plus an interest component of not exceeding \$402,740.00, aggregating up to \$35,402,740.00 (such instrument, the "Letter of Credit"). The Letter of Credit will provide credit support for variable rate demand bonds (the "Bonds") proposed to be issued by the County to provide funds to pay a portion of the cost of improvements to Key West International Airport.

This commitment is subject to the execution and delivery to the Bank of legal documents yet to be prepared, including, without limitation, a bond resolution, a letter of credit, a letter of credit reimbursement agreement and other Bond authorizing, collateral and security documents. All such documents must be satisfactory in form and substance to the Bank and its counsel.

Questions regarding the proposal may be addressed to the following individuals:

Linda Mason
Senior Client Manager
Senior Vice President
625 N. Flagler Drive, 10th floor
West Palm Beach, Florida 33401
Phone: 561-838-2329
Fax: 561-838-2325
linda.a.mason@bankofamerica.com

Holly Kuhlman
Credit Products Officer
Senior Vice President
4501 Tamiami Trail North, Suite 400
Naples, Florida 34103
Phone: 239-659-2275
Fax: 239-659-2284
holly.kuhlman@bankofamerica.com

The credit ratings for Bank of America are:

<u>Long Term/Short Term Ratings</u>	<u>Bank</u>
Moody's	Aa1/P-1
Standard & Poor's	AA/A-1+

Fitch

AA-/F1+

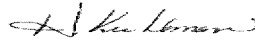
Any extension of credit under this commitment (in addition to any other conditions which may be required in the documents referred to in the preceding paragraph) is expressly subject to the terms and conditions set forth in the attached Terms and Conditions. If the County finds the terms and conditions of this commitment to be acceptable, please have the County execute both copies of the attached Terms and Conditions, keep one copy for your records and prior to the expiration date return one to the undersigned. If not accepted, this commitment shall expire on May 31, 2006. If accepted, the transaction must close on or before August 31, 2006.

We appreciate your consideration of our credit proposal and look forward to your response.

Sincerely,



Linda A. Mason
Senior Client Manager



Holly Kuhlman
Credit Products Officer

TERMS AND CONDITIONS

COUNTY: Monroe County, Florida

FACILITY: Direct Pay Letter of Credit ("Letter of Credit").

AMOUNT OF FACILITY: The outstanding principal amount of the Bonds, plus an interest component as required by the Bond documents, up to \$35,402,740.00 (as reduced from time to time, the "Available Amount").

PURPOSE: To provide credit and liquidity support for variable rate demand bonds to be issued by the County the proceeds of which will be used to pay a portion of the cost of improvements to Key West International Airport (the "Project") and to pay costs of issuance of the Bonds.

REPAYMENT TERMS: Amounts drawn under the Letter of Credit, exclusive of liquidity draws but inclusive of all other draws, shall be due and payable immediately. Liquidity drawings, i.e., drawings to purchase variable rate demand Bonds optionally tendered and not remarketed, shall be repaid on or before the scheduled expiration of the Letter of Credit and will bear interest until repaid at 30 day Libor plus 2.00% per annum (adjusted daily). Any amount not paid when due will bear interest at the maximum lawful rate.

The Bonds will have a maturity of up to 30 years and will amortize in accordance with approximately level annual debt service based upon a hypothetical fixed interest rate yet to be determined and which shall be acceptable to the Bank. The Bank will allow for the capitalization of interest during the first two years of the Bonds with the first principal redemption scheduled for on or about July 1, 2008. As the Bonds are retired, the principal and interest components (Available Amount) of the Letter of Credit shall be reduced.

The Bank understands that the Airport is anticipating the receipt of two grants which shall be utilized to fund a portion of the cost of the project. The first anticipated grant is an AIP Entitlement Grant in the amount estimated at \$6,900,000, payable at an estimated rate of \$2,300,000 per year beginning in fiscal year 2006. The second is a Florida Department of Transportation Grant of \$8,718,000, payable through fiscal year 2010. The Bank will require that proceeds from these grants be applied as advanced principal reductions to the Bonds. The Bank shall also require documentation which details the approval of the project application for the AIP grants and a copy of the written commitment for

the \$8,718,000 FDOT grants. Such documentation shall be acceptable to the Bank and its counsel.

The proceeds in the PFC Capital Improvement Account (to the extent legally available to pay debt service) may not be utilized for purposes other than payment of the proposed debt until such time as all anticipated grants as detailed above have been received and applied as advance principal reductions on the Bonds. After receipt and application of grant monies the funds may be utilized as detailed in the Bond Resolution as long as the County is in compliance with all rate covenants and other terms on conditions of the letter of credit reimbursement agreement.

COLLATERAL: The Bonds and the reimbursement obligation under the Reimbursement Agreement shall be secured by the Pledged Funds (as defined in the Airport Revenue Bond Resolution (Key West Airport), draft 2, dated 1/24/06, as revised and acceptable to Bank and its counsel, the "Bond Resolution"). Prior to issuance of the Letter of Credit, the Bank shall be provided evidence that the PFC's may lawfully be used to finance the 2006 Project and are lawfully available to pay debt service on the Bonds and any reimbursement obligation under the Reimbursement Agreement.

LETTER OF CREDIT FEE: County shall pay an annual Letter of Credit facility fee for the Letter of Credit of 81 basis points of the Available Amount, payable in advance on the date of issuance and each anniversary of the date of issuance of the Letter of Credit.

If the Airport obtains an underlying (uninsured) debt rating of BBB or better from either Moody's, S & P or Fitch, the Letter of Credit facility fee shall be reduced to 49 basis points of the Available Amount.

OTHER FEES: \$150.00 per draw, \$2,500.00 per amendment or transfer fee.

EXPIRATION/ EXTENSION: The Letter of Credit shall expire on the third anniversary of the date of issuance of the Letter of Credit. Unless the Bank shall have notified the County 30 days before an anniversary of the issuance of the Letter of Credit that the expiration date will not be extended, on each such anniversary date the expiration date will be extended by one year.

REPORTING REQUIREMENTS: So long as the Letter of Credit is outstanding, the County shall submit to the Bank annually, within 270 days following the end of the County's fiscal year, financial statements prepared in accordance with generally accepted accounting principles on an audited basis by an independent certified public accountant acceptable to the Bank. These financial statements shall include separate statements of account for

the Pledged Funds and shall be in sufficient detail to determine compliance with all applicable financial covenants.

The Bank shall require a copy of the preliminary ("in house") 2005 fiscal year end financial statements prior to closing. Such statements shall not materially vary from the information provided to the Bank in the feasibility study. In addition, prior to closing the Borrower shall provide the bank a written detail of the source of historical operating grants and capital grants as detailed in the financial statements. Such explanation shall detail the cause of the significant fluctuation in operating and capital grants for the FY02, FY03, FY04 and FY05 which shall be acceptable to the Bank. The 2005 final audited financial statement shall show no material adverse change from the preliminary statements provided to the Bank.

FINANCIAL
COVENANTS:

As stated in the Bond Resolution, except that for so long as the Letter of Credit is outstanding (i) the Rate Covenant shall be modified to require 100% coverage of any Subordinated Indebtedness (the 125% test shall remain as stated in the resolution), (ii) the Additional Bonds test ("ABT") shall be modified to include 100% coverage of Subordinated Indebtedness, (iii) completion Bonds (per 6.02(C) of the Bond Resolution) may not be issued except with the consent of the Bank unless the general ABT (Section 6.02(B) is met and (iv) the required coverages shall be met not only based upon the estimates of future financial performance as set forth in the Bond Resolution, but also based upon the actual results for the most recently concluded fiscal year or any period of twelve consecutive months in the 24 months most recently concluded prior to the issuance of the Additional Bonds

CREDIT
DOCUMENTS:

The Facility shall be issued in accordance with and governed by definitive documents to be executed and delivered by the County to the Bank and containing the terms set forth in this commitment and such other terms, conditions, representations, warranties and covenants as are usual and customary in similar transactions.

AUTOMATIC
PAYMENTS:

The County shall authorize the Bank to automatically deduct from a designated account with the Bank the amount of any payment due under the Letter of Credit documents. If the funds in the account are insufficient to cover any payment, the Bank shall not be obligated to advance funds to cover the payment.

SURVIVAL:

This commitment letter shall not survive the execution and delivery of the definitive credit documents. This commitment is revocable by the Bank at any time prior to acceptance by the County.

DELIVERY OF
DOCUMENTS:

The Bank shall not be obligated to deliver the Letter of Credit until certain conditions precedent to such delivery are satisfied, including, but not limited to and in addition to the other conditions set forth in this commitment, the following:

The Bank shall have received, duly executed, all credit documents and any other documents and instruments necessary or advisable in connection with the issuance of the facilities, all of which shall be in form and substance satisfactory to the Bank and its counsel.

The Bank shall have received the written opinion of County's counsel as to (i) the County's valid existence, (ii) the validity and enforceability of the credit documents, (iii) the due authorization of the credit documents, and (iv) such other matters as the Bank may reasonably require.

MISCELLANEOUS: All computations of interest and fees shall be based upon a 360 day year for the actual days elapsed. The default rate for the letter of credit fee shall be 2% per annum.

COVENANTS: The documents will contain other affirmative and negative covenants, provisions and representations, including default provisions and remedies.

CLOSING COSTS
AND EXPENSES: The Bank will be represented by Moyle, Flanigan, Katz, Raymond, White & Krasker, P.A. The County shall pay said firm's attorney's fees in connection with the transaction in the amount of \$25,000.

MATERIAL
ADVERSE
CHANGE: This commitment may be terminated, in the sole discretion of the Bank, upon the occurrence of a material adverse change in the financial condition of the County.

NON-
ASSIGNABLE: This commitment may not be assigned by County.

RELIANCE: This commitment constitutes an offer by the Bank to the County to issue the Facility described herein on the terms and conditions set forth herein and may not be relied upon by any third party for any purpose.

AMENDMENT
AND
WAIVER: No alteration, modification, amendment or waiver of any terms and conditions of this commitment, or of any of the documents required by or delivered to the Bank

under this commitment, shall be effective or enforceable against the Bank unless set forth in a writing signed by the Bank.

GOVERNING

LAW:

This commitment and the Facility shall be governed by and construed in accordance with the laws of the State of Florida (without regard to choice of law principles).

INTEGRATION:

The terms set forth above represent the entire understanding between the County and the Bank with respect to the subject matter of this commitment, and this commitment supersedes any prior and contemporaneous agreements, commitments discussions and understandings, oral or written, with respect to the subject matter of this commitment.

ARBITRATION:

The reimbursement agreement shall contain the Bank's standard arbitration provisions.

EXPIRATION:

Should this commitment not be accepted and received by the Bank by May 31, 2006, the expiration date, or not closed by August 31, 2006, then the Bank shall have no further obligation to extend credit hereunder.

The terms and conditions set forth above are accepted.

**BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA**

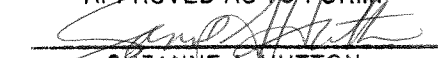
By: _____

Title: Mayor Charles "Sonny" McCoy

Date: _____, 2006

MONROE COUNTY ATTORNEY

APPROVED AS TO FORM:


SUZANNE A. HUTTON
COUNTY ATTORNEY

Date: 5/3/06